

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 14522-004WO1	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US03/30170	International filing date (day/month/year) 23 September 2003 (23.09.2003)	Priority date (day/month/year) 23 September 2002 (23.09.2002)
International Patent Classification (IPC) or national classification and IPC IPC(7): A63F 13/00, 9/24 and US Cl.: 463/26-28, 40-42		
Applicant WAGERWORKS, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

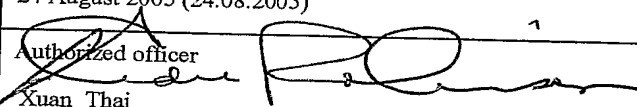
2. This REPORT consists of a total of 7 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of ___ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 22 April 2004 (22.04.2004)	Date of completion of this report 24 August 2005 (24.08.2005)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/ US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  Xuan Thai Telephone No. 571-272-3700

Form PCT/IPEA/409 (cover sheet)(July 1998)

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International application No.

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I. Basis of the report

1. With regard to the **elements** of the international application:*

☒ the international application as originally filed.

☒ the description:

pages 1-24 as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____.

☒ the claims:

pages 25-28, as originally filed

pages NONE, as amended (together with any statement) under Article 19

pages NONE, filed with the demand

pages NONE, filed with the letter of _____.

☒ the drawings:

pages 1-6, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____.

☐ the sequence listing part of the description:

pages NONE, as originally filed

pages NONE, filed with the demand

pages NONE, filed with the letter of _____.

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

☐ contained in the international application in printed form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

☒ the description, pages none

☒ the claims, Nos. none

☒ the drawings, sheets/fig none

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>7</u>	YES
	Claims <u>1-6, 8-20</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-20</u>	NO
Industrial Applicability (IA)	Claims <u>1-20</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Please See Continuation Sheet

Claims 1-20 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

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VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

The description is objected to as containing the following defect(s) under PCT Rule 66.2(a)(iii) in the form or contents thereof: 1. Page 5, line 5; the word "the" needs to be inserted after the word "by".

2. Page 5, line 13; the word "and" needs to be deleted.

Claims 1, 4 and 9 are objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: Claim 1, line 5 states, "...coupled by interface..." The word "the" or "said" needs to be inserted after the word "by".

Claim 4, line 17; the word "system" should be "systems".

Claim 9, line 8; the word "and" needs to be deleted.

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VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the questions whether the claims are fully supported by the description, are made:

Claims 1-20 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because the claims are indefinite for the following reason(s): The claims state just the word "progressive", for example, in claim 8 it states, "...when a user attains a progressive." For rejecting the claims it was assumed that "a progressive" meant "a progressive jackpot"; however, "a progressive" does not have to be a jackpot and it is confusing as to what just "a progressive" might embody. Is it a progressive jackpot or a progressive game, etc.? Therefore the claims are indefinite.

Claim 17 states "...and having a same progressive payout parameters to a progressive...". This preamble does not make sense. It is awkwardly worded and confusing.

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PCT/US03/30170**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Claims 1-6 and 8-20 lack novelty under PCT Article 33(2) as being anticipated by Torango, U.S. Patent No. 6,241,608 B1. Torango discloses a system for managing a progressive game. A progressive management device includes an interface (See Torango Fig. 1, item 111; col. 9 lines 17-20). A progressive engine is used for maintaining a progressive (See Torango Fig. 2). The progressive management device is coupled by the interface to a first gaming system and a second gaming system (See Torango Fig. 1). The first gaming system includes a first set of progressive payout parameters and the second gaming system includes a second set of progressive payout parameters that is different from the first set of progressive payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53) [claim 1]. For example, a player may win the progressive jackpot by playing bingo, or the player may win the jackpot by playing keno. Each of these two games has different parameters that need to be met in order to win the progressive jackpot. The system further includes a progressive payout parameter analyzer, which analyzes the first and second set of progressive payout parameters (See Torango col. 12 lines 43-47) [claims 2, 10]. The progressive management device is coupled to the gaming systems through a network (See Torango Figure 1) [claim 3]. The system displayed in Figure 1 can be considered a network since it ties various computers and devices together. The progressive management device includes a currency conversion device for converting data provided from one of the gaming systems into a predetermined universal currency (See Torango col. 18 lines 33-35) [claim 4]. The currency conversion is performed in real-time (See Torango col. 18 lines 52-54) [claim 5]. For example, the conversion is performed with the updated currency exchange rates. The progressive management device is operable to provide information on a progressive to a user gaming interfaces, wherein the information includes the value of the progressive (See Torango col. 21 lines 30-31) [claim 6]. The progressive is reset when a user attains a progressive (See Torango col. 21 lines 12-15) [claims 8]. Torango further discloses a method for including systems having different progressive payout parameters into the same progressive. A progressive jackpot is initiated (See Torango col. 9 lines 51-53). A request is received from a first gaming system to participate in a progressive. A request from a second gaming system to participate in the progressive is received (See Torango col. 12 lines 57-65). The first gaming system has a first set of progressive payout parameters and the second gaming system has a second set of progressive payout parameters that is different from the first set of payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53). A percentage of wager to be applied by each gaming machine to the progressive is calculated. The calculation is based on the first and second sets of progressive payout parameters (See Torango col. 13 lines 11-67) [claim 9]. The percentage of wager to be applied to each gaming system is calculated such that the product of progressive payout parameters odds and wager amount and the percentage of wager applied are equal for each gaming system (See Torango col. 13 lines 11-67; col. 14 lines 1-39) [claim 11]. The progressive payout parameters include game odds (See Torango col. 13 line 29) [claim 12]. The progressive payout parameter includes a currency type (See Torango col. 13 line 20) [claim 13]. The system further includes a progressive management device coupled to a gaming server. The gaming server including two or more gaming stations, wherein one of the gaming stations includes a first set of progressive payout parameters and a second station

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(To be used when the space in any of the preceding boxes is not sufficient)

includes a second set of progressive payout parameters that is different from the first set of progressive payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53) [claim 14]. A server is a shared computer on the local area network and may be used as the gatekeeper for controlling data. As seen in Figure 1, the system can be considered to have a game server, item 102. Torango further discloses a method for including gaming systems having different currency types to a progressive. Input is received from one or more gaming servers seeking participation in a progressive jackpot. The characteristics of each gaming system are analyzed including the currency type of the gaming system. The currency type of each gaming system is converted into a standard currency (See Torango col. 18 lines 32-35). One or more gaming systems are included in the progressive jackpot by varying the percentage of the gaming system's wager applied to the progressive jackpot (See Torango col. 13 lines 11-67) [claim 15]. Furthermore Torango discloses a method for validating progressive payout parameters in gaming systems participating in a progressive. Requests are received from one or more gaming servers including one or more gaming systems to participate in a progressive. The gaming systems include a first gaming system having a first set of progressive payout parameters and a second set of progressive payout parameters that is different from the first progressive payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53). The characteristics of each gaming system are analyzed (See Torango col. 12 lines 43-46). The characteristics include the progressive payout parameters. The progressive parameters of the gaming system are validated including verifying that game odds and a payoff are consistent and within predetermined criteria and including validated gaming systems in the progressive (See Torango col. 13 lines 11-67) [claim 16]. The system includes gaming systems from different enterprises and having a same progressive payout parameters to a progressive. A progressive management server is coupled through a network to two or more gaming servers. The gaming servers are operated by two or more enterprises. The gaming servers operate one or more gaming systems having the same progressive payout parameters (See Torango Figure 1) [claim 17]. The gaming systems have different progressive payout parameters (See Torango Fig. 1, 3; col. 11 lines 1-5, 38-53) [claim 18]. A method for determining a progressive outcome is disclosed. Data is received at a progressive management device concerning a wager placed by a user of a participating gaming system. The percentage of the wager to be applied to a progressive is determined based on progressive payout parameters analysis. The progressive payout parameters including game odds and wager amounts (See Torango col. 13 lines 11-67). The progressive is incremented (See Torango col. 6 lines 12-17). A random number generator calculation is executed using the game odds from the gaming system progressive payout parameters. The results of the random number generator calculation are transmitted to a participating gaming system (See Torango col. 15 lines 61-67; col. 16 lines 1-35) [claim 19]. A percentage of a wager to be applied to a progressive is determined through retrieval of previous analysis results from a database (See Torango col. 13 lines 11-67) [claim 20].

Claim 7 lacks an inventive step under PCT Article 33(3) as being obvious over Torango in view of Kelly et al., U.S. Patent No. 6,306,035 B1. Torango lacks in disclosing that the information is provided to the user gaming interfaces in real-time. Kelly teaches of a progressive game system in which information is provided to the user gaming interfaces in real-time (See Kelly col. 15 lines 39-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the information in real-time in the invention of Torango. By providing the information in real-time, the player is aware of the current status of the game and can then wager accordingly. Furthermore, the player is kept updated as to the current jackpot value, which may interest the player in continuing to play the game.

----- NEW CITATIONS -----

F US 6,306,035 B1 (KELLY et al) 23 October 2001, see column 15 lines 39-47.